

Abstract 639

TITLE: I'M WARNING YOU...? Ethics and the Duty to Warn in HIV Prevention Services

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ISSUE: Since Tarasoff (1976), the guidance of professional associations and numerous state laws have recognized a duty of psychotherapists and other health services providers to protect persons who are not their patients from foreseeable harm from their patients, despite the breach of patient provider privacy, confidentiality, and trust. In the era of HIV/AIDS, a similar duty to warn/protect others has been interpolated into HIV/AIDS-specific guidance and policies of numerous professional societies. Statutory guidance has also developed. Yet, the duty to maintain confidentiality and trust with patients, and the duty to protect others remain inherently in conflict, and more importantly a matter of ethical reflection than solely of law.

SETTING: This conflict occurs In HIV Prevention Services, and at the interface of Prevention Services with HIV/AIDS Case Management Services (often the same agency and same personnel), and at the interface of Public Health Agencies and emergent State and Federal Law.

PROJECT: At the 1999 Community Planning Leadership Summit (March 1999), the author presented a Poster, and Discussion, "What's Right? Bioethics in Community Planning". While a long agenda of ethical concerns was raised, impassioned discussion highlighted the agonizing dilemma: shall I maintain confidentiality and trust with my client/patient, or shall I warn others directly, or alert public health or law enforcement agencies about possible harm to others (possibly suffering physical, legal or moral harm myself)? Lack of adequate training, resources and support were highlighted. Like medical and nursing care, ethical care is a lively art and science. For example, informed, sound, and effective consideration of this dilemma for HIV Prevention Services must accurately gauge and actively engage the impacts of new social forces, including the popularity of "bare backing" (seeking unprotected anal sex) and State Law criminalizing unintentional and/or intentional transmission of HIV.

RESULTS & ISSUES LEARNED: This session will provide a brief outline of guidance from professional associations, authoritative texts in bioethics, and other resources (e.g. Model State Public Health Privacy Act (1999)). Discussion of cases, provided by the author and presented from the field by participants, will occupy most of the session. Resources for further discussion, and training, will be provided. Networking for sharing cases and case discussions, by Internet, or other means will be established.

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